

**CALENDAR ITEM**

**C34**

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04/20/17

PRC 8407.1

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J. Holt

**ASSIGNMENT AND AMENDMENT OF LEASE AND REVISION OF RENT**

**ASSIGNOR:**

Kevin P. Steward and Lori A. Steward

**APPLICANT/ASSIGNEE:**

The Steward Revocable Trust, dated November 15, 2015, Kevin Paul Steward and Lori Anne Steward, Trustors and Trustees

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land located in the Sacramento River, adjacent to 14513 Isleton Road, near Walnut Grove, Sacramento County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing floating boat dock, five pilings, and gangway.

**LEASE TERM:**

10 years, beginning July 1, 2012.

**CONSIDERATION:**

This lease provides that Lessor may modify the rent periodically during the lease term. Pursuant to this provision, staff conducted a rent review on this lease. Per the review, Staff recommends rent be revised from \$143 to \$137 per year, effective July 1, 2017.

**PROPOSED AMENDMENT:**

Amend the lease to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); all other terms and conditions of the lease shall remain in effect without amendment.

**SPECIFIC LEASE PROVISIONS:**

Liability insurance in an amount no less than \$1,000,000 per occurrence.

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**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5;  
California Code of Regulations, title 2, section 2000, subdivision (b).

**Public Trust and State's Best Interests Analysis:**

On August 14, 2012, the Commission authorized a General Lease – Recreational Use to Kevin P. Steward and Lori A. Steward, for an existing floating boat dock, five pilings, and gangway on the Sacramento River ([Calendar Item C29, August 14, 2012](#)). This lease will expire on June 30, 2022. On November 15, 2015, ownership of the upland parcel was deeded to The Steward Revocable Trust, dated November 15, 2015, Kevin Paul Steward and Lori Anne Steward, Trustors and Trustees. The Applicant is now applying for an assignment of lease. The Applicant is the owner of the existing facilities, the upland property owner, and the only party with a legal right to access the existing facilities from the land.

In conjunction with this assignment, staff performed a rent review called for in the lease. Based on current market conditions and fair rental value, staff recommends the rent be revised from \$143 to \$137 per year, based on changes to the impact area for the dock and application of the Delta Area Benchmark. Staff also recommends the lease be amended to reflect the new reduced lease (impact) area.

The lease facilities consist of an existing floating boat dock and appurtenant facilities, used for boating in the Sacramento River. Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, §6503.5).

The subject structures do not significantly alter the land; the lease amendment and assignment do not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the existing floating boat dock and appurtenant facilities will not substantially interfere with Public Trust needs, at this location at this time, and for the foreseeable term of the proposed lease.

The lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years, and a

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non-exclusive use provision. The lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

**Climate Change:**

Climate change impacts (including sea-level rise), more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located on the Sacramento River, which at this location is a tidally-influenced site vulnerable to flooding at current sea levels. The facilities associated with the lease area include an existing floating boat dock, five pilings, and gangway.

Based on its northern California location, the lease area will be at a higher risk of flood exposure given future projection scenarios of sea-level rise. This region could see up to one foot of sea-level rise (from year 2000 levels) by 2030, two feet by 2050, and possibly more than five feet by 2100 (National Research Council 2012). Rising sea levels can lead to more frequent flood inundation in low lying areas and larger tidal events. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding and storms (especially when coupled with sea-level rise).

In tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. The amount and timing of snowmelt runoff will likely change such that runoff pulses are earlier in the season and stronger precipitation events will occur over a shorter period of time. This is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall.

Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow, as well as runoff, will likely increase scour and decreasing bank stability at a faster rate. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

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The existing floating boat dock and gangway are adaptable to variable water levels, allowing them to rise and fall with storms and droughts and increasing their resiliency to some climate change impacts, but may require more frequent maintenance to ensure continued functionality, during and after storm seasons and to avoid dislodgement of dock facilities. The fixed features may need to be reinforced to withstand higher levels of flood exposure.

**Conclusion:**

For all the reasons above, Commission staff believes the assignment, amendment, and rent review are consistent with the common law Public Trust Doctrine and in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 2.2 of the Commission's Strategic Plan to ensure timely receipt of revenues and royalties from the use and development of State lands and minerals.
2. The bank protection adjacent to the lease parcel is leased to the Central Valley Flood Protection Board under Lease No. PRC 7203.9.
3. Assignment of the lease, amendment of the lease to make an adjustment on the lease area, and approving the revision of rent are not projects as defined by the California Environmental Quality Act, because they are administrative actions that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, sections 15378, subdivision (b)(5).

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

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**RECOMMENDED ACTION:**

It is recommended that the Commission:

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed assignment, amendment, and revision of rent will not impact public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location; are consistent with the common law Public Trust Doctrine; and are in the best interests of the State.

**AUTHORIZATION:**

1. Authorize the assignment of Lease No. PRC 8407.1, a General Lease – Recreational Use, of sovereign land as described in Exhibit A attached and by this reference made a part hereof, from Kevin P. Steward and Lori A. Steward (Assignor) to The Steward Revocable Trust, dated November 15, 2015, Kevin Paul Steward and Lori Anne Steward, Trustors and Trustees (Applicant/Assignee); effective November 15, 2015.
2. Authorize the amendment of Lease No. PRC 8407.1, a General Lease – Recreational Use, effective July 1, 2017, to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only).
3. Approve the revision of rent for Lease No. PRC 8407.1 from \$143 to \$137 per year; effective July 1, 2017.

**EXHIBIT A**

**PRC 8407.1**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflow Survey 326 patented September 5, 1864, in the County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing dock, gangway and five pilings lying adjacent to Parcel A as described in Exhibit "One" of that Grant Deed recorded November 27, 1995 as Document 199511270090 in Official Records of said County.

TOGETHER WITH any applicable use area(s).

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the left bank of the Sacramento River.

Accompanying plat is hereby made a part of this description.

**END OF DESCRIPTION**

Prepared February 13, 2017 by the California State Lands Commission Boundary Unit.





APN 156-0260-003

BANK PROTECTION  
UNDER PRC 7203.9

APPROXIMATE

EXISTING  
GANGWAY  
(2.6'X26')

9' IMPACT  
AREA

10'

40'

EXISTING  
DOCK

EXISTING  
PILINGS (5)

SHORELINE

Sacramento

River

# EXHIBIT A

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LAND DESCRIPTION PLAT  
PRC 8407.1 STEWARD REVOCABLE TRUST  
SACRAMENTO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



## SITE

APPROXIMATE

APN 156-0260-003

Sacramento

River

9' IMPACT  
AREA

40

10

EXISTING  
GANGWAY  
(2.6'X26')

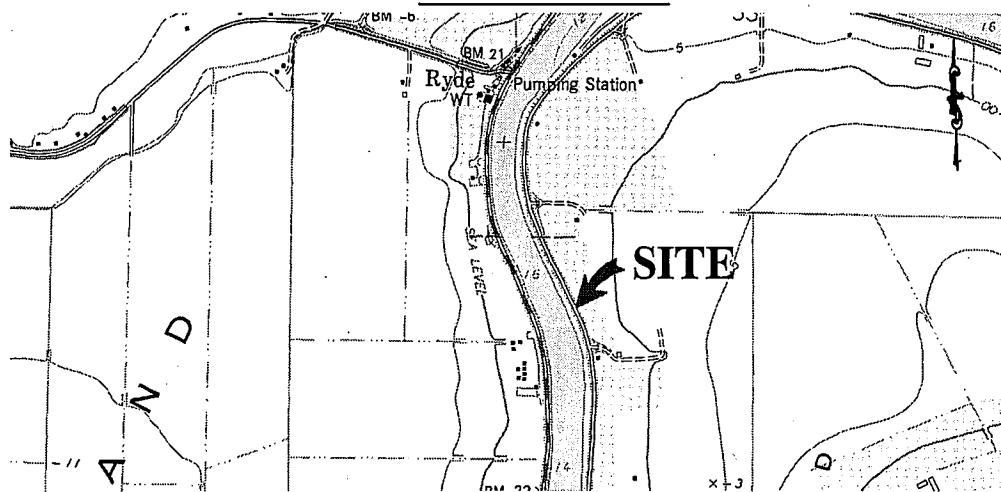
EXISTING  
DOCK

EXISTING  
PILINGS (5)

SHORELINE

14513 ISLETON ROAD, NEAR WALNUT GROVE

## LOCATION



MAP SOURCE: USGS OUAD

## Exhibit B

STEWART REVOCABLE TRUST

GENERAL LEASE -  
RECREATIONAL USE -

SACRAMENTO COUNTY



MJJ 02/10/2017

This Exhibit is solely for purposes of generally defining the lease premises; is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.